

SUBJECT: Amending practices and procedures for state judicial branch

COMMITTEE: Judiciary & Civil Jurisprudence — committee substitute recommended

VOTE: 8 ayes — Leach, Julie Johnson, Flores, Moody, Murr, Schofield, Slawson, Vasut

0 nays

1 absent — Davis

WITNESSES: For — Gale Fiasco, Texas Court Reporters Association; Elton Mathis, Waller County (*Registered, but did not testify*: J.R. Woolley, Justices of the Peace and Constables Association; Guy Herman, Statutory Probate Courts of Texas; Lee Parsley, Texans for Lawsuit Reform; Steve Bresnen, Texas Court Reporters Association; Amy Bresnen, Texas Family Law Foundation; Cicely Kay, Travis County Commissioners Court; Trey Duhon, Waller County; Craig Hopper)

Against — (*Registered, but did not testify*: William Pargaman)

On — Megan LaVoie, Office of Court Administration

DIGEST: CSHB 3474 would create new courts, change court jurisdictions, and make other changes related to judicial administration.

**Part 1. District Courts.**

CSHB 3774 would amend the Government Code to create twelve new district courts and alter the counties belonging to two district courts as follows:

<b>Relevant County/ Counties</b>	<b>Judicial District</b>	<b>Action</b>	<b>Effective Date</b>
<b>Bastrop</b>	465th	Created	1-Sep-23
<b>Brazos</b>	472th	Created	1-Sep-23
<b>Collin</b>	493rd	Created	1-Sep-23
	494th	Created	1-Sep-23
<b>Denton</b>	477th	Created	1-Jan-25
<b>Harris</b>	486th	Created	1-Sep-23
	487th	Created	1-Sep-23
	488th	Created	1-Sep-23
	495th	Created	1-Sep-24
	496th	Created	1-Sep-24
	497th	Created	1-Sep-24
<b>Kaufman</b>	489th	Created	1-Jan-24
<b>Brewster, Culberson, Jeff Davis, Presidio</b>	394th	Removed Hudspeth from district	1-Sep-23
<b>El Paso, Hudspeth</b>	205th	Removed Culberson from district	1-Sep-23

The 486th, 487th, 488th, 495, 496, and 497th Judicial Districts in Harris County would be required to give preference to criminal cases.

The 472nd Judicial District in Brazos County would be given primary responsibility for cases involving civil matters, family law matters, and juvenile matters.

The bill would provide for the transfer of all pending cases from the 205th and 394th judicial districts to their appropriate jurisdictions on September 1, 2023.

## **Part 2. Statutory County Courts.**

CSHB 3774 would amend the Government Code to create two new county courts at law, redesignate two existing county courts at law as

statutory probate courts, create two new statutory probate courts, and establish one new multicounty court at law as follows:

<b>Counties</b>	<b>Court</b>	<b>Action</b>	<b>Effective Date</b>
<b>Bee, Live Oak, McMullen</b>	2nd Multicounty Court at Law	Created	1-Sep-23
<b>Waller</b>	County Court at Law No. 2	Created	1-Sep-23
<b>Wilson</b>	County Court at Law	Created	1-Sep-23
<b>Bexar</b>	Statutory Probate Court No. 3	Created	1-Sep-23
<b>Travis</b>	Probate Court No. 2	Created	1-Oct-23
<b>Cameron</b>	County Court at Law No. 4	Redesignated as Probate Court No. 1	1-Sep-23
<b>Montgomery</b>	County Court at Law No. 2	Redesignated as Probate Court No. 1	1-Oct-23
<b>Aransas</b>	County Court at Law	Jurisdiction changes	1-Sep-23
<b>Grayson</b>	County Court at Law	Jurisdiction changes	1-Sep-23
<b>Dallas</b>	County Court at Law	Procedural changes	1-Sep-23

**Jurisdiction change for County Court at Law in Aransas County.** The bill would amend jurisdiction for the county court at law in Aransas County to include concurrent jurisdiction with the district court in civil cases in which the matter in controversy exceeded \$250,000.

**Creation of Probate Court in Bexar County.** The bill would create Probate Court No. 3 of Bexar County.

**Redesignation to Probate Court in Cameron County.** The bill would redesignate the County Court at Law No. 4 of Cameron County to the

Probate Court No. 1 of Cameron County. Probate jurisdiction would be removed from county courts at law and provided to the statutory probate court. The probate court also would be provided jurisdiction over mental health cases diverted from the criminal justice system in the county.

**Jurisdiction changes for statutory probate courts in Grayson County.**

The bill would amend the jurisdiction of a county court at law in Grayson County to include concurrent jurisdiction with the district court in family law cases and proceedings. The bill would require the district clerk to serve as clerk of a county court at law in family law cases and proceedings, and the county clerk to serve as clerk of the court in all other cases.

**Redesignation to Probate Court in Montgomery County and jurisdiction.** The bill would redesignate the County Court at Law No. 2 of Montgomery County to the Probate Court No. 1 of Montgomery County. The bill would provide statutory probate courts in Montgomery County concurrent jurisdiction with the district court, regardless of the amount in controversy or the relief sought, for:

- disputes relating to the creation of a constructive trust;
- declaratory judgment actions;
- actions in which the only relief sought was a writ of injunction; and
- actions to appoint a receiver under any law.

A statutory probate court of Montgomery County would have eminent domain jurisdiction, including the jurisdiction provided to district courts within Property Code, regardless of the amount in controversy or the remedy sought. All eminent domain actions, cases, matters, or proceedings shall be filed and docketed in a statutory probate court.

The bill would authorize the court to conduct docket matters at any location or remotely under certain conditions. The bill also would provide measures for funding and staffing. These changes would go into effect October 1, 2023.

**Creation of Probate Court in Travis County.** The bill would create Probate Court No. 2 of Travis County. The court would have primary responsibility for mental health matters. These changes would take effect October 1, 2023.

**Creation of County Court at Law No. 2 in Waller County.** The bill would create County Court at Law No. 2 of Waller County.

**Creation of County Court at Law No. 2 in Wilson County.** The bill would create the County Court at Law of Wilson County.

**Creation of 2nd Multicounty Court at Law for Bee, Live Oak, and McMullen Counties.** The bill would establish the second Multicounty Court at Law for Bee, Live Oak, and McMullen counties, which would have concurrent jurisdiction with the district courts, except in civil cases in which the amount in controversy is over \$250,000. The bill would establish certain procedures to provide for the funding of the court.

**Changes to county courts at law in Dallas County.** The bill would make certain amendments to the procedures of the county courts at law in Dallas County, revoking their exemption from the requirement that any civil case in which the amount in controversy was over \$250,000 must be heard by a jury composed of 12 members unless all parties agree to composed of less.

**General provisions.** The bill also would provide general provisions regarding procedures for:

- transferring active matters and cases to their proper jurisdiction upon the creation of new courts;
- establishing what judges will serve each newly created court;
- allowing for judges in the same county to sit and act for each other in certain matters or proceedings; and
- establishing which clerks would be required to serve or act in certain capacities.

**Part 3. Compensation of certain judicial officials**

**Judges and justices.** The bill would amend statute to include years of service as a district attorney, criminal district attorney, or county attorney when determining the annual compensation of a judge or justice of the supreme court other than the chief justice, a court of appeals, the court of criminal appeals other than the presiding judge, a district court, statutory county courts, and statutory probate courts.

**Multicounty statutory county courts.** The bill would amend statute to include years of service as an appellate court, district court, statutory county court, statutory probate court justice or judge, or as a district attorney, criminal district attorney, or county attorney when determining the annual compensation of a judge of a multicounty statutory county courts.

**District attorney or criminal district attorney.** The bill would amend statute to include years of service as a district attorney, criminal district attorney, or county attorney or an appellate court justice, district judge, judge of a statutory county court, judge of a multicounty statutory county court, or judge or justice of a statutory probate court when determining annual compensation for a district attorney or criminal district attorney.

**State prosecuting attorney.** The bill would amend statute to include years of service as a county attorney or an appellate court justice, district judge, judge of a statutory county court, judge of a multicounty statutory county court, or judge or justice of a statutory probate court when determining annual compensation for state prosecutors.

**Reporting obligations for justices of the peace.** The bill would require a justice of the peace who received any authorized fee, commission, or payment during a calendar year to submit a report to the Texas Ethics Commission with the total amount of fees, commissions, and payments received during the year.

**Expenses.** The bill would entitle judges and justices of the supreme court, court of criminal appeals, or court of appeals that travel to perform official

duties outside of their county of residence to travelling and other necessary expenses paid for by the state.

#### **Part 4. Juries**

**Disqualifications from grand and petit juries.** The bill would amend language concerning qualifications for grand jurors, from having "not" been convicted of a misdemeanor theft or felony to having "never," and further establish that a person who was convicted of a these crimes would be permanently disqualified from serving on a petit jury. Certain exemptions would be created for individuals who were placed on deferred adjudication or community supervisions or were pardoned.

**Disqualification list.** The bill would require clerks to prepare lists of names of people who are disqualified from grand and petit juries in the preceding month to be submitted monthly to the secretary of state. The district court would be allowed to remove from the jury wheel any individual disqualified under statute. A person who had served on a petit jury in a county or district court in recent months would no longer be disqualified.

**Petit jury pay.** The bill would increase the reimbursement to jury service to consist of the following:

- a minimum of \$20 for the first day or first fraction of a day;
- a minimum of \$58 for each day or fraction of a day after the first day.

The state would also be required to reimburse counties \$52 a day for the daily reimbursement paid to a juror after the first day.

**Petit jury age.** The bill would raise the age at which a person could qualify for an exemption from a petit jury from 70 to 75. The bill also would raise the age at which a person could apply for a permanent exemption from petit jury service from 70 to 75.

**Sheriff powers for clerks.** The bill would grant district and court clerks

the authority to complete certain tasks performed by the sheriff or constable related to assembling and convening a grand or petit jury.

**Jury summons.** The bill would require the Office of Court Administration to alter the model for a uniform written jury summons in the state, requiring that it include the option to provide website links to information about jury service and the option to include in the jury summons the juror questionnaire, provide a link to the court's website from which the juror questionnaire could be printed, or provide the link to complete the questionnaire online. The model would also be required to include a notice of contempt action for failure to comply with the summons. The bill would require a person to provide any electronic address within the jury questionnaire and would institute size requirements for a written jury summons.

**Electronic donation forms.** The bill would allow for electronic forms for the purposes of allowing jurors to donate to funds, programs, and county entities. The bill also would allow for these forms to be provided before the conclusion of jury service.

#### **Part 5. Criminal Law Magistrates.**

The bill would allow for criminal law magistrates to be appointed by the judges of the district courts and statutory county courts in Denton County and Grayson County. The bill would adopt provisions for appointments of magistrates in each county, including provisions for appointments, qualifications, compensation, jurisdiction, powers and duties, and other provisions for administration.

#### **Part 6. Family Courts.**

**Referral of actions to associate judges.** In addition to referring any aspect of a suit, the bill would allow judges to refer any aspect of an action or any matter ancillary to a suit or action to an associate judge and would expand the list of authorized cases to include cases related to parent-child relationships, marriages, names, protective orders and family

violence, temporary care and mental health services for minor children, and access to former residences to retrieve personal property. This section would go into effect September 1, 2023 and apply only to a suit or application filed on or after the effective date.

**Appointment of visiting judges for certain cases.** The bill would allow a presiding judge of an administrative judicial region to temporarily assign or appoint certain eligible judges as visiting associate judges to hear Title IV-D cases or child protection cases if an associate judge is temporarily unable to perform their duties.

**Appointment of associate judges in Duval County.** The bill would authorize the appointment of an associate judge for the 229th District Court, with the approval of the Commissioners Court of Duval County. The bill would provide for qualifications, compensation, restrictions for private practice, termination of services, referral of cases, orders of referral, powers, attendance of bailiff, witness, and other provisions related to the appointment of such an associate judge.

#### **Part 7. Court Reporters.**

**Reimbursement for court reporters.** The bill would allow the judges of two or more courts to appoint reporters and certified shorthand reporters to serve multiple courts and would create requirements for their compensation. The bill also would authorize an official court reporter and deputy court reporters to serve remotely.

The bill also would remove limits imposed on counties for reimbursing court reporters, allowing the commissioner court of the county for which the expenses were incurred to establish a greater amount of reimbursement than the maximum rate established in statute.

**Qualifications.** The bill would change the qualifications required to be a certified court interpreter, specifying that a candidate must meet the eligibility requirements set by the Office of Deaf and Hard of Hearing Services.

**Court Reporters Certification Advisory Board.** The bill would amend the composition of the Court Reporters Certification Advisory Board, increasing the number of members from seven to nine and specifying eligibility requirements. The bill also would set certain requirements for recruitment and recommendation of new members at the expiration of the current members terms.

**Oaths administered by shorthand reporters.** The bill would remove language permitting uncertified shorthand reporters to swear in witnesses on certain conditions. Certified court reporters would be provided with the authority to swear in witnesses without certain previously existing restrictions.

**Uncertified court reporters.** The bill would require uncertified court reporters to serve an affidavit to all parties before a deposition begins regarding the unavailability of a certified shorthand court reporter. The uncertified court report would be required to have to file the affidavit with the court.

**Civil penalties for unauthorized uncertified shorthand reporters.** The bill would authorize the Judicial Branch Certification Commission to enforce a civil penalty of \$1,000 for the employment of a noncertified person for shorthand reporting and to seek injunctive relief in response to repeated offenses.

**Court reporter service fund.** The bill would allow court reporter service funds maintained by the commissioners court of the county to assist in the payment of court reporter's preparation of an appellate record.

#### **Part 8. Other Provisions.**

**State of the judiciary address.** The bill would require the annual state of the judiciary to be orally provided to a joint session of the House of Representatives and the Senate.

**Interpreter costs.** The bill would establish that a party to a proceeding

who filed a statement of inability to afford payment of court costs would not be required to provide an interpreter or pay associated costs.

Counties would be required to collect information regarding how much was spent on court-ordered interpretation services in civil and criminal proceeding. The Office of Court Administration of the Texas Judicial System would collect this information and prepare an annual report.

**Appellate transcript requests.** The bill would amend provisions regarding the procedures to request an appellate transcript, amending provisions referencing specific rules under the Texas Rules of Appellate Procedure to reference the entirety of the Texas Rules of Appellate Procedure.

**Transfer of probate proceeding records.** The bill would establish procedures for courts to transfer probate and guardianship proceedings to other counties, including the requirement to transfer certain documents electronically such as a transfer certificates, an index of transferred documents, and copies of original documents including wills.

**Secure mail.** The bill would remove requirements for an application for a writ of habeas corpus in a criminal proceeding to be sent by secure electronic mail.

**Expunction.** The bill would allow for a person to file for an expunction of information in a county in which the offense was alleged to have occurred.

**Funerals.** The bill would allow for certain people to file an application with the court to have funeral and burial expenses reimbursed within nine months of either occurring.

**Tenant's judicial remedies.** The bill would increase the amount that a justice court can award for a tenant's judicial remedies, including an order of repair, to \$20,000.

**Depositions on written questions.** The bill would amend statute

regarding individuals who are authorized to take depositions to clarify that "depositions" refer to "depositions on written questions."

**Oaths.** The bill would require oaths made and signed by retired or former judges on the list maintained by an administrative judicial region to be filed with the secretary of state.

**General provisions.** The bill also changes language throughout to change and clarify practices and procedures related to judicial administration.

**Effect.** Unless otherwise specified, the provisions of the bill would go into effect on September 1, 2023. Certain matters such as causes of action, suits and applications, impaneled juries, and members appointed to certain positions, boards, and commissions would continue to be governed by the laws in effect until the effective date. Certain government agencies would be directed to adopt rules and make available forms and materials to implement these changes as soon as practicable after the date of effect.

SUPPORTERS  
SAY:

CSHB 3474 would help to ensure that adequate judicial resources are available to address the workload of the judiciary. Each session the Legislature traditionally considers a bill creating new courts, changing court jurisdiction, and making other changes related to judicial administration.

CSHB 3474 would create new district courts, county courts at law, and probate courts based on information obtained from districts such as caseloads, backlogs, and population growth, in consultation with the respective counties. The bill also would add provisions for more efficient and uniform judicial administration

The bill also would require the chief justice of the supreme court to give an oral state of the judiciary address in a joint session of the Texas House of Representatives and Senate. This would allow legislators and their staff to become more informed of judicial accomplishments and challenges and ensure better cohesion between the three branches of government.

CRITICS  
SAY:

No concerns identified.

NOTES:

According to the Legislative Budget Board, the bill would have a negative impact of about \$4.8 million to general revenue through fiscal 2024-2025.